



Promoting fair and effective criminal justice

**‘The full contribution which our prisons can make towards a permanent reduction in the country’s crime rate lies also in the way in which they treat prisoners. We cannot emphasise enough the importance of both professionalism and respect for human rights.’**

**Nelson Mandela, Speech to the South African Department of Correctional Services in 1998**

## Introduction

On 17 December 2015, the UN General Assembly adopted the revised UN Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), bringing to a conclusion a four-year process of review.

The review had been completed by the UN Commission on Crime Prevention and Criminal Justice in May 2015 after consensus was reached at the fourth and last Inter-governmental Expert Group Meeting in South Africa. The revision of the Standard Minimum Rules for the Treatment of Prisoners (SMR) was an historic event in that it was the first time that an international standard had been updated. States chose a ‘targeted revision’ approach, identifying the most outdated areas and rules whilst leaving the structure and the majority of the Rules unchanged.

Eight substantive areas have been subject to revision:

- Respect for prisoners’ inherent dignity
- Medical and health services
- Disciplinary measures and sanctions
- Investigations of deaths and torture in custody
- Protection of vulnerable groups
- Access to legal representation
- Complaints and independent inspection
- Training of staff

The Resolution adopting the revised Rules encourages Member States to endeavour to improve conditions in detention, consistent with the Nelson Mandela Rules. It also encourages the application of all other relevant and applicable United Nations standards and norms.

### The Essex group

During the process of the review, Penal Reform International and the University of Essex’s Human Rights Centre organised two expert meetings and provided recommendations on

possible wording for revised Rules, as well as a rationale for the suggested changes, based on a screening of existing human rights and criminal justice standards and norms. The deliberations of the group of experts – which have become known informally as the ‘Essex papers’ – were submitted to the Inter-governmental Expert Group Meeting (IEGM) established at the UN level to negotiate a review of the Rules in November 2012<sup>1</sup> and in March 2014.<sup>2</sup>

Drawing on the positive experience of these consultations, the ‘Essex group’ was reconvened for a third meeting of experts on 7-8 April 2016 in order to develop guidance on implementing the revised UN Standard Minimum Rules for the Treatment of Prisoners following their adoption as the Nelson Mandela Rules.

The consultation was, like the first two meetings, financially supported by the UK Government (UKAID).

### Purpose of this document

The purpose of the meeting was to reflect on the revised areas of the Standard Minimum Rules, and specifically to:

- identify specific Rules, and language, that require further guidance as to their interpretation;
- offer practical and concrete interpretation of specific Rules, drawing on existing international standards and practice.

The deliberations of the meeting took place in plenary and in six working groups, which inform the structure of this document. They focused on the areas and Rules revised, but took into account unchanged provisions where they were relevant in the context of the revised text.

The group emphasised that, while consolidating relevant guidance for prison administrations and staff in one document, the revised SMR will continue to be supplemented by other criminal justice and human standards, such as the UN Bangkok Rules for women prisoners, the UN Beijing Rules with regard to children, and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

### The ‘Third Essex Paper’

The document seeks to provide initial guidance on implementation and to serve as a basis for initiatives to develop more comprehensive guidance, training materials, or projects on implementation.

Using the minutes of deliberations of each Working Group as a starting point, the authors drew on additional comments provided by experts following the dissemination of draft chapters and on a screening of other relevant sources, including other treaties and soft law, reports and recommendations of UN Treaty Bodies and Special Procedures, as well as other relevant regional and international bodies. They took into consideration the rationale of

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<sup>1</sup> Summary of an Expert Meeting at the University of Essex on the Standard Minimum Rules for the Treatment of Prisoners Review, 21 November 2012, UNODC/CCPCJ/EG.6/2012/NGO/1, available in Arabic, English, French, Spanish and Russian; [http://www.unodc.org/unodc/en/justice-and-prison-reform/expert-group-meetings5.html#\\_ftn3](http://www.unodc.org/unodc/en/justice-and-prison-reform/expert-group-meetings5.html#_ftn3)

<sup>2</sup> Summary of an Expert Meeting at the University of Essex on the Standard Minimum Rules for the Treatment of Prisoners and Second Report of the Essex Expert Group on the Review of the Standard Minimum Rules for the Treatment of Prisoners, 20 March 2014, available at: [http://www.unodc.org/documents/justice-and-prison-reform/EGM-Uploads/PRI\\_ESSEX-2nd-paper.pdf](http://www.unodc.org/documents/justice-and-prison-reform/EGM-Uploads/PRI_ESSEX-2nd-paper.pdf).

changes to the Rules and the overarching principle expressed in the course of the review process that none of the changes must lower any of the existing standards.<sup>3</sup>

In terms of assessing progress in the implementation of the SMR, the authors would like to recall the Procedures for the Effective Implementation of the Standard Minimum Rules for the Treatment of Prisoners, in particular Procedure 5, which calls on states to inform the Secretary-General of the United Nations every five years of the extent of the implementation and the progress made, and of the factors and difficulties, if any, affecting their implementation.<sup>4</sup>

We would also like to recall the resolution of the Human Rights Council on human rights in the administration of justice, adopted in 2015, which ‘invites States to assess their national legislation and practice in accordance with those standards, including the revised United Nations Standard Minimum Rules for the Treatment of Prisoners (Mandela Rules)’.<sup>5</sup>

We hope that this paper will provide a useful starting point for policy-makers, prison administrations and staff in the implementation of the revised Standard Minimum Rules for the Treatment of Prisoners, as well as for health-care professionals, monitoring bodies and inspectors, inter-governmental organisations, NGOs and academia.

We would like to thank the participants for their helpful insights and for sharing their expertise (see list of participants in Annex 1). We would also like to thank Sharon Critoph for her contribution to the drafting process, to Harriet Lowe for the thorough editing and proof-reading, and to Oliver Robertson for his support on footnoting this paper.

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<sup>3</sup> *Report on the meeting of the Expert Group on the Standard Minimum Rules for the Treatment of Prisoners held in Vienna from 31 January to 2 February 2012*, UNODC/CCPCJ/EG.6/2012/1, 16 February 2012, Recommendation 4. *Economic and Social Council Resolution on Standard Minimum Rules for the Treatment of Prisoners*, 20 September 2013, E/RES/2013/35, OP 10; *UN General Assembly Resolution on Torture and other cruel, inhuman or degrading treatment or punishment*, 22 October 2013, A/C.3/68/L.33, 32 bis; *Human Rights Council Resolution on human rights in the administration of justice*, 23 September 2013, A/HRC/24/L.28, OP 16; *Commission on Crime Prevention and Criminal Justice Resolution on Standard Minimum Rules for the Treatment of Prisoners*, 25 April 2013, E/CN.15/2013/L.22/Rev.1, OP 10 (endorsed by ECOSOC, 20 September 2013, E/RES/2013/35 and subsequently endorsed by UN General Assembly); *Report and recommendations of the Intergovernmental Expert Group Meeting in Buenos Aires*, 13 December 2012, UNODC/CCPCJ/EG.6/2012/4, Para.4; *UN General Assembly Resolution*, 20 December 2012 A/RES/67/188, OP 5; *Economic and Social Council Resolution*, 10 August 2012, E/RES/2012/13, OP 5; *Commission on Crime Prevention and Criminal Justice Resolution*, E/CN.15/2012/L.4/Rev.2, 24 April 2012, OP 5; *UN General Assembly Resolution, ‘Standard Minimum Rules for the Treatment of Prisoners’*, UN Doc. A/RES/68/190, 11 February 2013, OP 10; *UN General Assembly Resolution ‘Standard Minimum Rules for the Treatment of Prisoners’*, UN Doc. A/C.3/69/L.3, 26 September 2014, OP 6; *UN General Assembly Resolution, United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)*, A/RES/70/175, 16 December 2015, preamble.

<sup>4</sup> UNODC, *Compendium of United Nations standards and norms in crime prevention and criminal justice*, 2016, *Procedures for the effective implementation of the Standard Minimum Rules for the Treatment of Prisoners* (Economic and Social Council resolution 1984/47, annex, of 25 May 1984).

<sup>5</sup> Human Rights Council, *Resolution on Human rights in the administration of justice, including juvenile justice*, 29 September 2015, A/HRC/30/L.16, OP5

## **Note on terms used in this document**

Where the document refers to Rules, it refers to the Nelson Mandela Rules. The term 'revised Standard Minimum Rules for the Treatment of Prisoners' and 'Nelson Mandela Rules' is used interchangeably on purpose, seeking to emphasise that the Rules are not a newly created standard, but an updated version of the 1955 SMR. The terms 'Essex group' or 'experts' refer to the participants of the expert meeting held 7-8 April 2016 at the University of Essex in Colchester, UK.